

M-1.

June 14, 1934

Mr. James E. Babbitt,
Attorney at Law,
Babbitt Building,
Flagstaff, Arizona.

Dear Jim:

In answer to your correspondence of May 23, 1934, regarding your office as member of the House of Representatives, I advise that in going into this matter this office came to the conclusion that under the ruling of our Supreme Court in the case of Windsor vs. Hunt, 29 Arizona, at page 504, when a member of the legislature accepted a position or employment, containing or possessing these three elements, to-wit:

- (1) The specific position must be created by law,
- (2) There must be a definite duty imposed by law upon the incumbent,
- (3) He exercises the sovereign power of the state or one of its subdivisions,

that in such event, the situation came under the provision of Section 4, Article LV of the Constitution, and created a vacancy in the office. However, it occurs to me that you have already accepted such an appointment and that the taking of compensation for this employment would in no wise further complicate the situation.

Chas. Strouss, Geo. Paul and I will see you soon. We expect to go fishing with you.

Sincerely yours,

Assistant Attorney General.

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